

Message Text

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TAGS:MARR, MNUC, FR

SUBJECT: NUCLEAR POWERED WARSHIP (NPW) VISITS TO FRANCE

REF: (A) AMEMBASSY PARIS 12983 (DTG 061551Z JUL 72);

(B) STATE 180069 (DTG 031608Z OCT 72); (C) STATE AIRGRAM

A-292 OF 16 JAN 75

1. SUMMARY. MESSAGE PROVIDES BACKGROUND ON PREVIOUS
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DISCUSSIONS CONCERNING U.S. NPW ENTRY TO FRENCH PORTS AND
GUIDANCE FOR REOPENING THESE DISCUSSIONS. END SUMMARY

2. BY WAY OF BACKGROUND, THE U.S. SUSPENDED NPW VISITS TO FRANCE IN 1969 BECAUSE OF ENACTMENT OF A FRENCH DECREE LAW REGULATING ENTRY OF ALL NPW INTO FRENCH PORTS. THE FRENCH INTERPRETED THEIR LAW AS REQUIRING A BILATERAL US-GOF AGREEMENT FOR NPW ENTRY WHICH CONFLICTS WITH US POLICY THAT NPW VISITS ARE MADE ONLY ON THE BASIS OF THE ASSURANCES CONTAINED IN THE U.S. STANDARD STATEMENT WHICH IS PROVIDED TO THE HOST COUNTRY WHEN NECESSARY. U.S. PROPOSED TO GOF THAT THEY VIEW MUTUAL EXCHANGE OF ASSURANCES SUCH AS ARE CONTAINED IN STANDARD STATEMENT AS SATISFYING THEIR NEED FOR A BILATERAL AGREEMENT. HOWEVER, IN JULY 1972, THE FRENCH; FORMALLY SUBMITTED A DRAFT BILATERAL AGREEMENT FOR U.S. CONSIDERATION (REFTEL A). IN ADDITION TO BEING

OBJECTIONABLE IN PRINCIPLE, THE DRAFT AGREEMENT CONTAINED A NUMBER OF TROUBLESOME FEATURES, ONE OF WHICH WAS THE REQUIREMENT THAT THE U.S. ACCEPT THE STANDARD OF ABSOLUTE LIABILITY FOR NPW REACTOR INCIDENTS. REFTTEL B STATED REASONS WHY U.S. CANNOT ACCEPT FRENCH DRAFT ACCORD ON NPW VISITS SUBMITTED BY GOF AS THE BASIS FOR MUTUALLY ACCEPTABLE VISIT ARRANGEMENTS.

3. RATHER THAN REPLY NEGATIVELY TO THE FRENCH PROPOSAL WE HAVE PREFERRED TO HOLD SUBSTANTIVE DISCUSSIONS IN ABEYANCE IN THE HOPES A MORE FAVORABLE CLIMATE WOULD DEVELOP. IN THE PAST SIX MONTHS DISCUSSIONS WITH SENIOR FRENCH NAVAL OFFICIALS INDICATE THAT GOF MAY BE WILLING TO CONSIDER MODIFICATION OF THEIR BILATERAL DEMANDS IN ORDER TO PAVE THE WAY FOR FUTURE VISITS OF FRENCH NPW TO FOREIGN COUNTRIES. IN ADDITION, FRENCH NAVY HAS APPARENTLY FORMALLY REQUESTED MINISTRY OF FOREIGN AFFAIRS THROUGH MINISTRY OF DEFENSE TO WORK OUT SUITABLE ARRANGEMENTS FOR RECIPROCAL NPW VISITS. WITH THE ENACTMENT OF PUBLIC LAW 93-513 (SEE REF C), WE ARE NOW IN A POSITION TO PROVIDE ADDITIONAL ASSURANCES CONCERNING COMPENSATION FOR DAMAGES CAUSED BY NUCLEAR INCIDENTS INVOLVING THE NUCLEAR REACTOR OF A U.S. WARSHIP.

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4. IN VIEW OF THE FOREGOING, EMBASSY IS REQUESTED TO APPROACH GOF AND REOPEN DISCUSSIONS ON NPW PORT ENTRY USING THE FOLLOWING POINTS:

A. SINCE GOF PROVIDED U.S. WITH A DRAFT ACCORD ON NPW PORT ENTRY, MATTER HAS BEEN UNDER STUDY BUT RESPONSE HAS BEEN HELD IN ABEYANCE WHILE U.S. LEGISLATIVE EFFORTS

REGARDING NUCLEAR REACTOR ACCIDENT LIABILITY WERE UNDERWAY. AFTER SEVERAL YEARS THESE ACTIONS ARE NOW COMPLETE AND ACCORDINGLY WE WISH TO PURSUE THE MATTER WITH GOF IN THE HOPES OF REACHING A MUTUALLY SATISFACTORY SOLUTION.

B. AS PREVIOUSLY CONVEYED TO GOF, IT IS THE POLICY OF THE U.S. NOT TO ENTER INTO BILATERAL AGREEMENTS CONCERNING PORT VISITS OF NAVAL SHIPS. THIS POLICY IS TRADITIONAL AND WIDELY PRACTICED BY OTHER MARITIME NATIONS. THE U.S. HAS SUCCESSFULLY FOLLOWED THIS POLICY WITH RESPECT TO BOTH CONVENTIONAL AND NUCLEAR POWERED WARSHIPS AND BELIEVES BILATERAL AGREEMENTS CONCERNING NPW VISITS ARE NOT NECESSARY NOR ARE THEY DESIRABLE BECAUSE SUCH AGREEMENTS WOULD INEVITABLY VARY IN TERMS AND CONDITIONS. NEVERTHELESS, IN ORDER TO RESPOND TO THE GENUINE CONCERNS THAT HOST GOVERNMENTS EXPRESS TO THE U.S. FROM TIME-TO-TIME WITH RESPECT TO NUCLEAR PROPULSION, THE USG HAS ISSUED

A STATEMENT OF STANDARD ASSURANCES ON THE OPERATION OF NPWS IN FOREIGN PORTS. THIS STATEMENT, WHICH IS PROVIDED ON A GOVERNMENT-TO-GOVERNMENT BASIS, CONTAINS ASSURANCES CONCERNING REACTOR SAFETY, ASPECTS OF DESIGN, CREW TRAINING, OPERATING PROCEDURES AND CLAIMS. TO ENSURE CONSISTENCY OF U.S. ASSURANCES TO ALL HOST GOVERNMENTS, THE STANDARD STATEMENT IS USED WITHOUT CHANGE WORLDWIDE. THIS STANDARD STATEMENT, COMBINED WITH OUR LONG RECORD OF SAFE OPERATIONS, HAS FORMED THE SOLE BASIS FOR U.S. NPW VISITS WORLDWIDE.

C. THE UK USES THE SAME PROCEDURE, I.E., PRESENTATION OF UKG ASSURANCES ESSENTIALLY THE SAME AS THOSE IN THE U.S. STANDARD STATEMENT, WHEN SEEKING VISITS IN FOREIGN PORTS FOR THEIR NPW. THUS THESE TWO NPW COUNTRIES, WHOSE SHIPS VISIT MANY OTHER COUNTRIES, FOLLOW IDENTICAL

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PRACTICES IN GAINING HOST COUNTRY APPROVAL FOR NPW PORT ENTRY. THE GOF SHOULD GIVE CAREFUL CONSIDERATION TO THE SIMPLICITY AND DEMONSTRATED EFFECTIVENESS OF THIS PRACTICE, AS WELL AS THE DISADVANTAGES OF ATTEMPTING TO NEGOTIATE AND MAINTAIN SEPARATE AND DIFFERING AGREEMENTS WITH EACH COUNTRY THEY MAY WISH FRENCH NPW TO VISIT, AS FRENCH NPWS SEEK TO MAKE FOREIGN PORT VISITS. REASONS FOR FOLLOWING THIS WIDELY ACCEPTED PRACTICE INCLUDE NEED TO PROTECT SECURITY OF SENSITIVE NUCLEAR PROPULSION TECHNOLOGY, NECESSITY OF MAINTAINING FLEXIBILITY OF OPERATION OF WARSHIPS, AND DESIRE TO AVOID POSSIBLE ENCROACHMENT ON THE TRADITIONAL IMMUNITY OF WARSHIPS UNDER INTERNATIONAL LAW. IT IS OUR VIEW THAT A NEGOTIATED AGREEMENT BY ONE NAVAL NUCLEAR WARSHIP POWER

COULD SET AN UNDESIRABLE PRECEDENT AND SERIOUSLY COMPLICATE FUTURE ARRANGEMENTS FOR THEM ALL.

D. CONCERNING GOF CONCERNS OVER CLAIMS ARISING FROM A NUCLEAR INCIDENT INVOLVING A NUCLEAR REACTOR OF A U.S. WARSHIP, WE ARE NOW IN A POSITION TO PROVIDE NEW ASSURANCES CONCERNING NPW REACTOR ACCIDENT LIABILITY OWING TO LEGISLATIVE AUTHORITY WHICH HAS BEEN ENACTED BY THE U.S. CONGRESS. AS OF 6 DECEMBER 1974, THE PROVISIONS OF THIS LEGISLATION ARE IN EFFECT FOR ALL U.S. NPW ENTERING FOREIGN PORTS. THIS LAW, PL 93-513, PROVIDES THAT THE VALIDITY (OR MERIT) OF ANY CLAIM ARISING OUT OF A NPW REACTOR INCIDENT WILL BE DECIDED BY THE U.S. ON THE BASIS OF ABSOLUTE (NO FAULT) LIABILITY. AS A BILL WHICH WAS ORIGINATED IN AND PASSED BY THE CONGRESS AND SIGNED BY THE PRESIDENT, THIS LEGISLATION IS TANGIBLE EVIDENCE THAT THE U.S. IS PREPARED TO SETTLE MERITORIOUS CLAIMS FOR NUCLEAR REACTOR RELATED DAMAGE INVOLVING ITS

NPW PROMPTLY AND ON A FAIR AND EQUITABLE BASIS.

E. THIS LEGISLATION IS DESIGNED TO CLARIFY APPLICATION OF A LEGAL PRINCIPLE AND NOT BECAUSE THE U.S. CONSIDERS NPW REACTOR INCIDENT REMOTELY POSSIBLE. THESE SHIPS HAVE A REMARKABLE RECORD, ACCUMULATING TO DATE A TOTAL OF OVER 1300 YEARS OF REACTOR OPERATION WITHOUT AN INCIDENT. WITH 130 NAVAL REACTORS IN OPERATION, U.S. NPW HAVE
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VISITED OVER 35 COUNTRIES AND 90 FOREIGN PORTS IN COMPLETE SAFETY.

F. IN VIEW OF THE REASONS STATED, IT IS REQUESTED THAT GOF RECONSIDER THEIR REQUEST TO NEGOTIATE A BILATERAL AGREEMENT AND CONSIDER ACCEPTANCE OF THE U.S. STANDARD STATEMENT COUPLED WITH PL 93-513 AS THE BASIS FOR RENEWAL OF U.S. NPW VISITS TO FRENCH PORTS. IF GOF SHOULD DESIRE TO VISIT U.S. PORTS WITH FRENCH NPW IN THE FUTURE, U.S. WOULD OF COURSE CONSIDER SUCH REQUESTS ON A RECIPROCAL BASIS: I.E., ON THE BASIS OF SATISFACTORY GOF UNILATERAL ASSURANCES AND THE DEMONSTRATED SAFETY RECORD OF FRENCH NPW.

5. FYI. IN VIEW OF PAST EXPERIENCES WITH GOF ON NPW PORT ENTRY, WE EXPECT THE ONLY HOPE OF BREAKING THE IMPASSE IS FOR THE FRENCH TO RECOGNIZE THEIR LONG RANGE DEFENSE INTERESTS WILL BE BEST SERVED BY ADOPTING OUR APPROACH. WHILE WE RECOGNIZE THE FRENCH ARE STILL SEVERAL YEARS AWAY FROM HAVING NPWS (SSN AND SURFACE SHIPS) WHICH THEY WOULD LIKELY WISH TO VISIT FOREIGN PORTS, THE ISSUES WILL

NOT CHANGE AND THERE IS APPARENT STRONG FRENCH NAVY
INTEREST IN GETTING THE MATTER SETTLED NOW. WE OF COURSE
CONTINUE TO BE MOST DESIROUS OF REOPENING FRENCH PORTS
TO OUR NPWS PARTICULARLY IN SUPPORT OF OPERATIONS IN THE
MEDITERRANEAN. EMBASSY SHOULD EMPHASIZE TO GOF THAT BY
ADOPTING U.S. AND UK STANDARD STATEMENT APPROACH, THEY
WILL BE CHOOSING A STRAIGHTFORWARD, WELL ESTABLISHED
METHOD THAT WORKS. END FYI

6. COPIES OF PL 93-513-AND THE JOINT CONGRESSIONAL
COMMITTEE ON ATOMIC ENERGY REPORT ON THIS LEGISLATION,
FORWARDED TO EMBASSY BY REFTEL C, SHOULD BE PROVIDED TO
GOF IN CONJUNCTION WITH THIS PRESENTATION. INGERSOLL

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